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1 A. Pena

2 A. No.

3 Q. Who is your current supervisor at the
4 garage right now?

5 A. Mr. Raj.

6 Q. What hours does Mr. Raj work?

7 A. He passes by to pick up the reports.
8 Sometimes he passes by in the morning, sometimes
9 he passes by at night.

10 Q. Does Mr. Raj actually work at the
11 garage, or just pass by the garage to pick up the
12 reports?

13 A. He doesn't work in the garage. He just
14 picks up the reports.

15 Q. What hours do you work?

16 A. Twelve hours a day.

17 Q. When do you start work?

18 A. I started working from seven a.m. to
19 seven p.m.

20 Q. How long have you worked from seven
21 a.m. to seven p.m.?

22 A. I worked that shift for about two
23 years. Sometimes I had to cover vacation or
24 something like that for another employee.
25 Covering shifts.

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1 A. Pena

2 Q. How many of these employees that you
3 just named work during all or part of the shift
4 that you work?

5 A. I work with them because I started four
6 p.m. until twelve. They are the ones that do the
7 day shifts -- there are other people that relieve
8 also. That relieve us.

9 Q. You previously testified you were
10 working seven a.m. to seven p.m. You have
11 testified you are working four p.m. to midnight.
12 Which is it?

13 MR. FAILLACE: Objection. He was
14 confused as to time. Objection because
15 he was confused about time. I already
16 objected. He wasn't clear about the
17 time. When he was saying seven to seven
18 he meant some other --

19 Q. As you sit here today, what hours are
20 you working at the garage?

21 A. Right now in 2007, I am working from
22 four p.m. to twelve a.m.

23 Q. Isn't it a fact that you have worked
24 eight hours a day since March of 2006?

25 A. I am not sure, no.

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1 A. Pena

2 Q. Isn't it a fact that you are currently
3 working eight hours per day?

4 A. Now, yes.

5 Q. When did you start working eight hours
6 a day?

7 A. This year, 2007.

8 Q. When in 2007?

9 A. I don't know exactly.

10 Q. Besides you, does anyone else work at
11 the garage with you?

12 A. One other person, yes.

13 Q. Who is that?

14 A. I worked with Juan --

15 MR. FAILLACE: I'm going to object
16 for vagueness. I think there is a need
17 for clarification. He's not
18 understanding the time period you are
19 asking.

20 MR. WALKER: Right now.

21 A. Right now, who I work with?

22 Q. Yes.

23 A. Sometimes I work with Pedro Brito, Juan
24 Lorenzo, Pedro Breton. There are two other
25 persons, but I don't remember the names.

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1 A. Pena

2 Q. During 2007 when you have been working
3 from four p.m. to midnight, what other employees
4 would be at the garage during that time?

5 A. Jose Suazo.

6 Q. Anyone else?

7 A. I worked also with Diroche Colon.

8 Q. Anyone else?

9 A. Of that garage, I don't remember any
10 other names.

11 Q. Do all of the employees who work at the
12 garage when you work at the garage park cars?

13 MR. FAILLACE: Objection. Can you
14 please specify?

15 MR. WALKER: When he's working.

16 A. Repeat the question.

17 Q. During the time that you're working and
18 other employees are working at the garage, do
19 these employees also park cars?

20 A. Yes, sir.

21 Q. During any time that you have been
22 working during 2007, what is the most number of
23 employees who have been working at the same time
24 as you?

25 A. There are six employees. Three at

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1 A. Pena

2 Corp. document signed by Angelo Pena,
3 marked for identification, as of this
4 date.)

5 Q. Mr. Pena, I'm showing you what has been
6 marked as Defendants' Exhibit 1 for
7 identification. I ask if you have ever seen that
8 document.

9 A. This document I saw it. But the only
10 time I signed it, they didn't tell me what it was.

11 Q. Did you read the document before you
12 signed it?

13 A. No.

14 Q. Is the document written in both English
15 and Spanish?

16 A. Yes, sir.

17 Q. Do you understand the Spanish that is
18 written there?

19 A. Yes, sir.

20 Q. Are you in the custom of signing
21 documents that you don't read?

22 A. No, sir.

23 Q. But you signed this one without reading
24 it?

25 A. I signed it because the supervisor

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1 A. Pena

2 Been employed by the company, have you taken any
3 sick days?

4 A. No, sir.

5 Q. During any shift that you've worked at
6 the garage, have you -- during 2007, have you ever
7 left the garage?

8 A. No, sir.

9 Q. During your shift, you have never left
10 the garage to buy food?

11 A. No, sir.

12 Q. Do you bring any lunch to the garage
13 with you?

14 A. No, sir.

15 Q. Your testimony is you do not eat at the
16 garage?

17 A. No, sir. I have no time.

18 Q. Do any of the employees you work with
19 take lunch?

20 A. No.

21 Q. Is it your testimony that during
22 2007 -- during the time that you've worked at the
23 Sage Parking Garage that you have never taken a
24 break?

25 A. After 2007 we still don't take breaks.

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1 A. Pena

2 passed it to me. At that moment, I was parking
3 cars. I signed it right away and gave it back to
4 him. I had no time to read it.

5 Q. Is it a fact that another employee read
6 this document to you in Spanish?

7 A. No, sir. The only one that gave it to
8 me was the supervisor. He took it back right
9 away.

10 Q. Do you know who Chris Chavez is?

11 A. No.

12 Q. Do you know any employee named Chris?

13 A. I don't know. I used to go to work and
14 I didn't ask too many questions about people's
15 names.

16 Q. Did any employee ever read to you that
17 document in Spanish?

18 MR. FAILLACE: Objection.

19 Already answered.

20 Q. You can answer it.

21 A. No, sir.

22 Q. Did anyone at the company ever tell you
23 you were entitled to a one-hour lunch break?

24 A. Never.

25 Q. During the time in 2007 that you have

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1 A. Pena

2 no.

3 Q. Let me make sure you understand the
4 question. During 2007 during the hours that you
5 have worked at the Sage Parking Garage, have you
6 ever taken a break?

7 A. No, sir.

8 Q. So it is your testimony that every
9 minute that you have been at the garage during
10 2007, you have been working?

11 MR. FAILLACE: Objection. The
12 interpreter forgot to add 2007.

13 A. Yes, sir.

14 Q. When you started work for the company
15 in October of 2003, which garage did you work at?

16 A. 199th and Webster.

17 Q. How long did you work at that garage?

18 A. I told you before, nine months.

19 Q. After you worked at 199 Webster, where
20 at the company did you work?

21 A. 155th and Saint Nicholas.

22 Q. How long did you work at that garage?

23 A. I'm not sure because they would --
24 shifting. I worked a couple months at 155 and
25 different places. 169 -- I worked at just about

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A. Pena

Q. You testified that you were paid more for overtime hours; is that correct?

A. Yes, sir.

Q. I'm trying to find out how much more you were paid for your overtime hours than your regular hours. Are you paid more per hour for your overtime hours than your regular hours?

A. Of course.

Q. How much more are you paid for your overtime hours per hour than your regular hours?

A. I don't know exactly.

Q. Is it more than \$9 per hour?

A. No.

Q. As you sit here today, you do not know the amount that you are paid for overtime hours?

MR. FAILLACE: Objection. You're not giving him a time frame.

MR. WALKER: 2007.

MR. FAILLACE: Make it clear to him.

A. 2007, they paid 6.75.

Q. Do you know how much more they paid per hour for overtime hours in 2007?

A. Like nine -- nine something. I don't

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A. Pena

the minimum wage, for your regular hours?

A. Yes, sir.

Q. And you're paid a higher rate for your overtime hours after 40 hours a week?

A. That's the overtime hours?

Q. Yes.

A. Yes. They pay more for the overtime.

Q. And that has occurred all throughout 2007; is that correct?

A. Yes, sir.

Q. Prior to 2007, was there always a higher rate for hours over 40?

A. Yes, sir.

Q. Since October of 2003, have you always been paid by check by the company?

A. The first 15 days, no. But then after that, yes, by check.

Q. Have you ever received any cash payments from anyone at the company?

A. The first -- like I told you, the first 15 days they gave me cash.

Q. So that was back in October 2003, they gave you cash?

A. Yes, sir.

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A. Pena

know. Nine something. Now in 2007.

Q. Do you know how much you were paid for overtime hours in 2006?

A. I don't know. I started about 5.15. And then they raised it according to what the state said.

Q. During the entire time that you have been employed by the company, have you received more for overtime hours than for regular hours?

A. No.

Q. During what period of time did you not receive more for overtime hours?

A. In all of them.

Q. Other than 2007?

A. I'm still working -- I'm working six days a week, eight hours a day, 48 hours. And they still put 40 hours at one rate and eight hours at another rate. They pay me more regular time than overtime.

Q. So on your paycheck, there is 40 hours at one rate; is that correct?

A. Can you specify a little more the question? Can you break it down?

Q. Is it a fact that you're paid one rate.

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A. Pena

Q. Since those first 15 days, have you received any cash from the company?

A. No.

Q. How much cash did you receive during the first 15 days?

A. The first five or six days that I worked, they paid me about \$260.

Q. What about after that?

A. After that, they paid me by check.

Q. Did you declare that cash on your income tax?

A. No, sir. I didn't know I had to.

Q. So after the first 15 days, you have only been paid by check and you have not received any cash; is that correct?

A. A couple of times, I received 10 or \$20 that they gave me.

Q. A couple of times?

A. A couple of times.

Q. Does that mean two times?

A. It was 2003, 2006. It was around 2006 that they gave me cash.

Q. In 2006?

A. Yes.

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A. Pena

Q. How many times in 2006 did they give you cash?

A. I don't remember because those are hours that I worked, and the supervisor didn't put it down in the shift. I would ask him about it. And he found out hours are missing, so I would get it in cash.

Q. How many times during 2006 did that happen?

A. I don't remember exactly.

Q. Was it once?

A. No. It was more than once.

Q. It was more than twice?

A. Yes.

Q. Was it more than five times?

A. Like from nine to ten times, around nine to ten times.

Q. So your testimony is that you did not receive cash during 2004; is that correct?

A. Yes, sir.

Q. You did not receive any cash during 2005; is that correct?

A. Yes, sir.

Q. You did not receive cash during 2007;

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A. Pena

say was a lunch break.

Q. Other than the lunch break that you were not paid for, were there any other hours that you were not paid for?

A. The ones I told you before. The one or two hours that weren't put down.

Q. I understand. But your testimony is that you got paid for the hours that were not put down?

A. That's the 10 or \$20 I told you.

Q. So you were paid for those hours; isn't that a fact?

A. Yes, sir. Yes, those hours, yes.

Q. So the only hours that you claim you were not paid for is the lunch break hour?

A. Yes, sir.

Q. Do you punch a time clock?

A. Yes, sir.

Q. Have you ever let anyone else punch your time card?

A. No, sir. Can't be done. There was no one else. The other one is the one that relieves you.

Q. By the way, which individual person

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A. Pena

is that correct?

A. No, sir.

Q. You have received cash during 2007?

A. No, sir.

Q. So your testimony is that you have not received cash in 2007?

A. Yes, sir.

Q. And you did receive cash during 2006 nine or ten times?

A. Yes, sir.

Q. How much cash did you receive on each of those nine or ten occasions?

MR. FAILLACE: Objection. He already answered.

Q. You can answer.

A. Between 10 and \$20 depending on the amount of hours that they didn't pay me. Sometimes I worked 12, 13 hours, and they just forgot to put it on the check.

Q. After they paid you the cash, had you been paid for all of your hours?

A. No, sir.

Q. What hours were you not paid for?

A. An hour every day. The one that they

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A. Pena

paid you the 10 to \$20 per cash?

A. I'm not sure exactly because the supervisor would give me an envelope. I don't know what was in the envelope or who put it in there.

Q. Did the supervisor give you the cash because you complained that you were not paid for a certain time?

A. Yes, sir.

Q. When you finish work, do you punch your time card out?

A. Of course. If not, they wouldn't pay me.

Q. Have you ever worked at the garage during 2007 after you punched your time clock out, time card?

A. Yes, sir.

Q. This is during 2007?

A. No, no. Not 2007.

Q. So during 2007, you have never performed any work after you punched your time card out?

A. No, sir.

Q. In 2006, did you ever perform any work

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1 A. Pena

2 after you punched your time card out?

3 A. No.

4 Q. During 2005, did you perform any work
5 after you punched your time card out?

6 A. I'm not sure if it was during 2004 or
7 2005. I went -- I worked my 12 hours at one
8 parking garage, and then I had to go to another
9 garage for another 12 hours to replace someone
10 that didn't show up. I worked a full day straight
11 that time.

12 Q. So your testimony is you worked 12
13 hours at one garage, and then you went to a second
14 garage to work another 12 hours; is that correct?

15 A. Yes, sir.

16 Q. How long did it take you to get from
17 the first garage to the second garage?

18 A. The supervisor himself took me. It was
19 about maybe five to ten minutes.

20 Q. Did you punch in at the second garage?

21 A. I don't remember if I did. I didn't
22 have my card with me, because I had the card at
23 the other garage. When he took me, I didn't have
24 the card with me.

25 Q. When you left the first garage, did you

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1 A. Pena

2 punch out?

3 A. Yes. That's where I had it.

4 Q. Were you paid for the time you worked
5 at the second garage?

6 A. They paid me but not all.

7 Q. How many hours did they not pay you
8 for?

9 A. The overtime.

10 Q. Is it your testimony that you were paid
11 regular pay for all of the hours you worked at the
12 second garage?

13 A. Yes, sir.

14 Q. So what you were not paid was time and
15 a half for the hours at that second garage; is
16 that correct?

17 A. No, sir.

18 Q. What were you not paid for?

19 A. The extra hours. They only paid me
20 like it was a regular day.

21 Q. But you were paid your regular minimum
22 wage rate for all of those hours you worked at the
23 second garage?

24 MR. FAILLACE: Objection. He has
25 answered it twice.

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1 A. Pena

2 MR. WALKER: It's unclear to me.

3 Q. Is that correct?

4 A. Yes, sir.

5 Q. How often did that happen that you
6 would go from one garage to the other garage?

7 A. I did that maybe two or three times.

8 Q. Other than those two or three times,
9 were you paid for all of the hours that you worked
10 by the company?

11 MR. FAILLACE: Objection. He has
12 already answered that question.

13 MR. WALKER: No, he hasn't.

14 MR. FAILLACE: Yes, he has. He
15 told you what hours he was paid.

16 Q. You can answer the question.

17 A. No, sir.

18 Q. Other than the two or three times when
19 you went to work in the second garage, were there
20 any other hours that you were not paid for? Other
21 than the cash payments?

22 A. Yes, sir. The lunch hour.

23 Q. Other than the lunch hour and other
24 than the two or three times that you worked at the
25 second garage, were you paid for all of the hours

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1 A. Pena

2 that you worked by the company?

3 A. The City also states that after 10
4 hours of work, the company has to pay you one hour
5 more and they didn't pay that.

6 Q. Other than that and the lunch and the
7 two or three times, were there any other hours you
8 were not paid for?

9 A. If I would be able to say my sick days.

10 Q. What do you mean your sick days?

11 A. Days that I have had to go to the
12 doctor or one has to go to the doctor, or
13 something like that, or get sick or something.

14 (Recess taken from 10:32 a.m. to
15 10:48 a.m.)

16 Q. Mr. Pena, when we took our break, the
17 last question you answered is that you had said
18 you had not been paid for sick days; is that
19 correct?

20 A. I answered that because you asked me
21 what days I wasn't paid for. I don't know if
22 that's what -- I don't know if that's in the
23 politics.

24 Q. During 2007, how many sick days have
25 you taken?

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1 A. Pena
 2 A. None.
 3 Q. Have you ever taken a sick day?
 4 A. Never. I only suggested that because I
 5 have heard about that in other companies. That's
 6 why. It doesn't matter.
 7 Q. Isn't it a fact that you have been paid
 8 for sick days when you did not work?
 9 A. Never. I have never had a sick day.
 10 Q. Have you ever left your job to go to a
 11 doctor?
 12 A. No, sir.
 13 Q. Have you ever taken any vacation days
 14 during the time you have been employed by the
 15 company?
 16 A. Day off that they give me.
 17 Q. Anything else?
 18 A. 2004 when I was in Santo Domingo for
 19 about a month.
 20 Q. When in 2004 were you in Santo Domingo?
 21 A. I don't remember exactly, but I think
 22 it was during the summer.
 23 Q. Since October of 2003, have you visited
 24 Santo Domingo at any other time other than the
 25 trip in 2004?

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1 A. Pena
 2 A. No, sir.
 3 Q. During 2007, you testified you received
 4 your check on Friday; is that correct?
 5 A. Yes, sir.
 6 Q. At what time of day do you receive your
 7 check?
 8 A. Whatever hour the supervisor leaves it.
 9 Q. Isn't it a fact it would be after four
 10 p.m.?
 11 A. I couldn't tell you. It's at the
 12 office. I just go and look for it. I never see
 13 him when he leaves.
 14 Q. I understand. Isn't it a fact you
 15 don't arrive at the garage until four p.m. to
 16 start work?
 17 A. I work there -- I arrive there at four
 18 o'clock on the dot.
 19 Q. So you get your check after you arrive
 20 at four p.m.; isn't that correct?
 21 A. I find it there, yes.
 22 Q. Do you cash your check on the same day
 23 that you receive it?
 24 A. No, sir.
 25 Q. Where do you cash your check?

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1 A. Pena
 2 A. No, sir.
 3 Q. Since October 2003, have you traveled
 4 outside the United States?
 5 A. No, sir.
 6 Q. Have you taken any time off from your
 7 job to visit any place in the United States
 8 outside of New York City?
 9 A. No, sir.
 10 Q. Isn't it a fact since February of 2006
 11 you have been paid for your lunch hour?
 12 MR. FAILLACE: Objection. He
 13 already answered.
 14 MR. WALKER: No, he didn't. I
 15 never asked that question.
 16 MR. FAILLACE: You asked it
 17 earlier, but go ahead. You can answer it
 18 again.
 19 A. Can you repeat the question?
 20 Q. Isn't it a fact since February of 2006
 21 the company has paid you for your lunch hour?
 22 A. No, sir.
 23 Q. Isn't it a fact that prior to February
 24 of 2006 you received cash to pay for your lunch
 25 hour?

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1 A. Pena
 2 A. Sometimes the cashier, but I always
 3 deposit it in my bank account.
 4 Q. Where is your bank?
 5 A. Now I have my account at Washington
 6 Mutual.
 7 Q. Is the Washington Mutual branch that
 8 you have your account in near the garage where you
 9 work?
 10 A. No, sir. There is no bank around
 11 there.
 12 Q. Are there any restaurants near the
 13 garage where you work?
 14 A. No, sir.
 15 Q. Are there any delicatessens or bodegas
 16 near where you work?
 17 A. Bodega.
 18 Q. Have you ever left your job to buy
 19 anything at this bodega?
 20 A. No, sir.
 21 Q. Do you receive tips in connection with
 22 your employment?
 23 A. Yes, sir.
 24 Q. Have you ever given these tips to any
 25 supervisor of yours at the company?

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